IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 3138 of 2004
For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KUTCH DISTRICT PANCHAYAT - Petitioner(s)
Versus
BHAVNA KAUSHIKRAI DHOLAKIA - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
MR KISHOR M PAUL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 16/01/2006

ORAL JUDGMENT

Heard learned advocate Mr. Hemant S. Munshaw for petitioner and Mr. Kishor M. Paul for respondent. This petition was admitted by this court by issuing rule thereon on 12th March, 2004. While admitting petition, interim relief in terms of paragraph 8(C) was granted by this Court.

2. In this matter, petitioner has challenged award passed by Labour Court Kachchh at Bhuj in Reference No. 50 of 1999 dated 7th October, 2003 wherein labour court has granted reinstatement while setting aside order of termination without back wages and consequential benefits with continuity of service.

3. I have considered submissions made by learned advocates for parties. At page 44, last two lines and first paragraph on page 45 [internal page 26 and 27] of award in question has clearly established that finding given by labour court Kachchh at Bhuj are contrary to

record and are given without application of mind as well as without reasons in support of its conclusion. These facts were rightly considered and conceded by learned advocate Mr.K.M. Paul on behalf of respondent, therefore, suggestion is to remand matter back to labour court for reconsideration of entire matter a fresh within some reasonable time. This submission was vehemently opposed by learned advocate Mr.Munshaw on behalf of petitioner because there was delay of thirteen years in raising of an industrial dispute and thereafter, more than seven years have passed. Therefore, his is submission that in view of this passage of time, matter cannot be remanded back to Labour Court.

I have considered submissions made by Mr. Munshaw. It is his submission that there was delay in raising of an industrial dispute and during pendency of reference, more than seven years have passed. However, there is evidence on

record before labour court which was not properly examined and appreciated by labour court and no reasons have been given, therefore, according to my opinion, as labour court has committed error in giving reason and since it is a case of non application of mind, therefore, in such circumstances, matter can be remanded back for reconsideration on the basis of record available before labour court. Therefore, in interest of justice, award passed by labour court in Reference No. 50 of 1999 dated 7th October, 2003 is quashed. Labour Court,Kachchh at Bhuj is directed to decide a fresh Reference No.50 of 1999 in accordance with law after giving reasonable opportunity to parties before it within six months from the date of receipt of copy of this order without being influenced in any manner by order of this Court. This petition is allowed. Rule is made absolute in aforesaid terms. No order as to costs.

(H.K. Rathod,J.)

Vyas